

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

RYAN MAYS,

Plaintiff,

v.

THE ALBERT M. “BO” ROBINSON
ASSESSMENT & TREATMENT
CENTER, et al.,

Defendants.

Civil Action No. 17-4352 (MAS) (TJB)

MEMORANDUM ORDER

THIS MATTER comes before the Court upon the Report and Recommendation (“R&R”) of the Honorable Tonianne J. Bongiovanni, U.S.M.J., with regard to non-party William Moleins’s (“Mr. Moleins”) failure to comply with the Court’s Orders. (R&R, ECF No. 52.) Judge Bongiovanni certified the following facts in the R&R:

1. On August 6, 2019, Plaintiff served a subpoena personally on William Moleins, requiring Mr. Moleins to appear for a deposition on September 10, 2019. Docket Entry No. 44-1.
2. After Mr. Moleins failed to appear at his subpoenaed deposition, Plaintiff wrote the Court requesting an Order compelling Mr. Moleins’s attendance. Docket Entry No. 43.
3. On October 1, 2019, the Court entered an Order requiring Mr. Moleins to appear for a deposition on November 7, 2019 at The Law Offices of Marshall, Dennehey, Warner, Coleman & Goggin, located at 15000 Midlantic Drive, Suite 200, Mt. Laurel, New Jersey 08054. Docket Entry No. 45.
4. Plaintiff served a copy of the Court’s Order of October 1, 2019 and served an updated subpoena personally on Mr. Moleins on October 9, 2019. Docket Entry No. 48-2.
5. On November 29, 2019, after Mr. Moleins, again, failed to appear at his scheduled deposition, Plaintiff wrote the Court requesting that Mr. Moleins be held in contempt and that attorney fees be imposed against Mr. Moleins in the amount

of \$2,500.00 for counsel's time, travel and court reporter expenses. Docket Entry No. 47.

6. On December 10, 2019, the Court entered a Letter Order to Show Cause requiring Mr. Moleins to both appear in Court on January 23, 2020 to show cause why he should not be held in contempt and ordered to reimburse Plaintiff's attorney fees, as well as to submit a written explanation regarding his failure to appear at his subpoenaed depositions no later than January 10, 2020. Docket Entry No. 49. In the Letter Order to Show Cause, the Court directed the Clerk to send a copy of the Order to Mr. Moleins by both regular mail and certified mail, return receipt requested. There has been no indication that Mr. Moleins failed to receive notice of the Letter Order to Show Cause.
7. Mr. Moleins failed to submit the required written explanation and also failed to appear at the Order to Show Cause [Hearing] held on January 23, 2020.

(R&R 2–3.)

The R&R also set forth the legal standard and ultimately recommended that the Court issue an Order to Show Cause requiring Mr. Moleins to appear and state why he should not be held in contempt. (*See generally* R&R.) The Court, having received no objections pursuant to Local Civil Rule 72.1(c)(2), having reviewed the R&R and other documents on file in this matter, and for good cause shown,


IT IS on this 17th day of July 2020,

ORDERED THAT:

1. The R&R (ECF No. 52) is hereby **ADOPTED**.
2. Mr. Moleins must submit a written response to this Order to Show Cause by **August 11, 2020**. In his response, Mr. Moleins must show cause as to why he should not be held in contempt of Court for failing to comply with (1) the subpoena served by Plaintiff on August 6, 2019; (2) the Court's Order of October 1, 2019 (ECF No.

45); and (3) the Court's Letter Order to Show Cause of December 10, 2019 (ECF No. 49). Mr. Moleins must also show cause as to why he should not be required to reimburse Plaintiff's attorney fees in the amount of \$2,500.

3. Mr. Moleins's written response to the Order to Show Cause must include contact information for the Court to schedule a Zoom conference. Failure to provide contact information may result in the requirement of an in-person court appearance.
4. Mr. Moleins must appear before the Court for an Order to Show Cause hearing via Zoom conference on **August 18, 2020 at 11:00 a.m.**
5. Plaintiff must serve a copy of this Order upon Mr. Moleins by **July 24, 2020** and must e-file proof of service on Mr. Moleins by **August 4, 2020**.



MICHAEL A. SHIPP
UNITED STATES DISTRICT JUDGE